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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,841	08/08/2006	Detlef Lauk	022862-1090-00	1054
23409 7590 02/22/2011 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
			EXAMINER	
			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3656	
			MAIL DATE	DELIVERY MODE
			02/22/2011 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Interview Summary

**Application No.**

10/588,841

**Applicant(s)**

LAUK ET AL.

**Examiner**

Vinh T. Luong

**Art Unit**

3656

All participants (applicant, applicant's representative, PTO personnel):

(1) Vinh T. Luong.

(3) \_\_\_\_\_.

(2) Cozad Smith Jullianne (Registration No. 62,174).

(4) \_\_\_\_\_.

Date of Interview: 16 February 2011.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal (copy given to: 1) ☐ applicant

2) ☐ applicant's representative

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: None.

Identification of prior art discussed: None.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Vinh T Luong/  
Primary Examiner, Art Unit 3656

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135 (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant contended that this application was filed under 37 CFR 1.371 (i.e., it is a national stage of PCT/EP05/50364) and PCT Rule 11.13(b) does not require the materials to be shown in the cross sections, thus, Applicant should not be required to show the materials in the cross sections.

The Examiner respectfully submitted that PCT Rule 11.13(b) states: "[c]ross-sections shall be indicated by oblique hatching which should not impede the clear reading of the reference signs and leading lines." (MPEP § 1825). In this case, the original drawings did not comply with PCT Rule 11.13(b) because the cross sections were not indicated by any oblique hatching as positively required by PCT Rule 11.13(b) as evidenced by the terms "shall be" in the Rule.

Applicant further contended that PCT Article 27(1) states: "[n]o national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations."

The Examiner respectfully submitted that the Examiner's requirement of showing of the hatching under 37 CFR 1.84(h)(3) in the cross sections is not different from or additional to the requirement of PCT Rule 11.13(b) since both 37 CFR 1.84(h)(3) and PCT Rule 11.13(b) require oblique hatching. (Please see "[h]atching must be used to indicate section portions of an object, and must be made by regularly spaced oblique parallel lines spaced sufficiently apart to enable the lines to be distinguished without difficulty" cited in 37 CFR 1.84(h)(3) and "[t]he examiner may require new drawings where the drawings which were accepted during international phase did not comply with PCT Rule 11" cited in MPEP § 1825).

Applicant proposed to amend the original drawings by adding the generic hatching. The Examiner respectfully submitted that MPEP § 608.02 states that different types of hatching should have different conventional meanings as regards the nature of a material seen in cross section (37 CFR 1.84(h)(3)). Thus, if Applicant adds the oblique hatching to the original drawings, the oblique hatching would have the meaning that the claimed device is made of metal in accordance with drawing symbols for draftsman shown in MPEP § 608.02. Since the original disclosure does not disclose that the device is made of metal, thus, it would raise the issue of new matter. The Examiner further respectfully submitted that, based on the Examiner's information and belief, MPEP § 608.02 or the American National Standards Institute (ANSI) apparently does not mention about a generic hatching that symbolizes the nature of all types of materials (please see "IX DRAWING SYMBOLS" in MPEP, p. 600-112, Rev. 5, Aug. 2006). Therefore, it is unclear to the Examiner as to what type of hatching is considered to be the "generic" hatching.

Applicant proposed that Applicant would add a label/description to point out that the added hatching does not represent the nature of any material.

The Examiner respectfully suggested that Applicant should file an amendment after final with the proposed drawing corrections and Applicant should present Applicant's arguments/contentions in writing, i.e., in the amendment after final since all business with the Office should be transacted in writing (see 37 CFR 1.2 cited in the instant Form PTOL-413). Upon receiving Applicant's proposed drawing corrections, the Examiner would consult with PCT Legal Advisor of the Office in order to determine: (a) whether the proposed amended drawings would be acceptable as Applicant contended; and (b) if the proposed amended drawings would not be acceptable, whether the Examiner could waive the requirements of PCT Rule 11.13(b) to accept the original drawings without any hatching in view of the fact that the claims do not call for the material(s), i.e., the material(s) is/are apparently not an important feature of the invention (see MPEP, p. 600-112 supra).